



Journal of the House

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Twelfth Meeting Day

Monday Afternoon



January 31, 2005


The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Representative Peggy M. Welch.

The Pledge of Allegiance to the Flag was led by Representative William C. Friend.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis 	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin 	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 53: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE:  indicates those who were excused.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 179 and 304 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 4 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, February 1, 2005 at 1:30 p.m.

RICHARDSON

Motion prevailed.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 5

Representative Borror introduced House Concurrent Resolution 5:

A CONCURRENT RESOLUTION to honor and congratulate Fort Wayne Snider High School band members.

Whereas, Megan Austin and Jon Schaab were invited to march in the 2005 Tournament of Roses Parade;

Whereas, Megan Austin, a 2004 graduate of Snider High School, played the flute in the parade;

Whereas, Jon Schaab, a senior at Snider High School, was a drum major during the parade;

Whereas, Both band members were invited by the Bands of America organization to participate in the Rose Bowl Parade;

Whereas, The first Rose Bowl Parade was held in 1890 and the event has grown in such popularity that it is cast in 75 countries;

Whereas, Megan Austin and Jon Schaab were among 330 young people from around the country selected to participate in the Rose Bowl Parade; and

Whereas, Megan Austin and Jon Schaab earned this honor through their many hours of hard work and practice: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the House of Representatives of the General Assembly does honor Fort Wayne Snider High School band member Megan Austin and Jon Schaab for their participation in the 2005 Tournament of Roses Parade.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Megan Austin and Jon Schaab.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Wyss.

House Resolution 6

Representative Frizzell introduced House Resolution 6:

A HOUSE RESOLUTION to honor the William Meredith Hendley Clan, branch of the Hendley Family Association, Incorporated on the occasion of its 25th Anniversary.

Whereas, The William Meredith Hendley Clan was inaugurated into existence on January 1, 1976 as one of two branches of The Hendley Family Association, Inc.;

Whereas, The William Meredith Hendley Clan was established to represent the descendants of Mr. William Meredith Hendley, born January 26, 1847 in Jackson (now Putnam) county, Tennessee, one of two sons of Adin S. Hendley of whom his descendants established The Hendley Family Association, Inc.;

Whereas, The William Meredith Hendley Clan, at its establishment, was allowed three executive officers and those elected were: Mrs. Edith Laverne Hendley-Kirk, Chairman, of Carmel, Indiana; Mr. Robert Edward Hendley, Vice Chairman, of Santa Ana, California, and Mrs. Sarah Belle Brown-Hendley, Secretary, of Gloucester Point, Virginia;

Whereas, The William Meredith Hendley Clan established in its by-laws the same ceremonial position adopted by The Hendley Family Association, Inc. in its by-laws and the incorporation charter filed in Nashville, Tennessee, the title of Clan Elder for the eldest member having not already ascended to the ceremonial position of Chief Elder of The Hendley Family Association, Inc. Those who have held this honor are: the late Mr. Seay Smith Hendley, Sr. of Dallas, Texas January 1, 1976–March 6, 1976; the late Mr. Seay Smith Hendley, Jr. of Louisville, Kentucky March 6, 1976–December 6, 1977; the late Mrs. Evelyn Mae Hendley-Blackwell of Louisville, Kentucky December 6, 1977–April 13, 1987; the late Mr. Emerson H. Hendley of Gloucester Point, Virginia April 13, 1987–December 6, 1992; the late Mrs. Edna Loraine Hendley-Tolbert of Anaheim, California December 6, 1992–February 2, 1999; Mrs. Edith Laverne Hendley-Kirk of Carmel, Indiana February 2, 1999–present;

Whereas, The William Meredith Hendley Clan has the honor of having the second Chief Elder of The Hendley Family Association, Inc., the late Mr. Seay Smith Hendley, Sr. of Ocala, Florida March 6, 1976–December 6, 1977, and those who have ascended since then are: the late Mr. Seay Smith Hendley, Jr. of Louisville, Kentucky December 6, 1977–April 13, 1987; the late Mrs. Evelyn Mae Hendley-Blackwell of Louisville, Kentucky April 13, 1987–December 6, 1992; Mr. Emerson Holmes Hendley of Gloucester Point, Virginia December 6, 1992–August 24, 1998; Mrs. Edna Loraine Hendley-Tolbert of Anaheim, California February 2, 1999–July 28, 2003;

Whereas, The William Meredith Hendley Clan reorganized its executive officers on the ascension of Mrs. Edith Laverne Hendley-Kirk to the position of Clan Elder on February 2, 1999. Mr. Donald Edwin Hendley of Anaheim, California, now of Glasgow, Kentucky was appointed Clan Chairman, and Mrs. Linda Bess Hendley (Mrs. Donald Edwin Hendley) was appointed Clan Secretary. The Office of Clan Vice Chairman was declared vacant on July 28, 2003, and Mrs. Priscilla Gail Hendley-Hoagland of Indianapolis, Indiana was appointed to the vacancy;

Whereas, The William Meredith Hendley Clan co-hosted the first provisional reunion of the to-be Hendley Family Association, joining the members of the other branch of the family, the to-be Francis Marion Hendley Clan, on the farm of Mr. & Mrs. Billy F. Hendley, then of Providence, Indiana on Memorial Day 1975. Mr. & Mrs. William Kenneth Hendley, Sr. of Carmel, Indiana lead the delegation of the to-be William Meredith Hendley Clan;

Whereas, The William Meredith Hendley Clan has had the honor of seeing two national presidents elected for the Hendley Family Association, Inc. the late Mr. Francis Marion "FRANK" Hendley, II of Ocala, Florida (The First National President) 1976-1977, and the late Mr. Stephen Holmes Hendley of Gloucester Point, Virginia;

Whereas, The William Meredith Hendley Clan has had the honor of seeing elected all the national vice presidents of the Hendley Family Association, Inc. the late Mr. Emerson Holmes Hendley of Gloucester Point, Virginia 1976-1977; Mr. William Kenneth Hendley, Sr. of Carmel, Indiana May 30–December 31, 1979; Mrs.

Sarah Jane Hendley Stafford of Martinsville, Indiana April 9 –December 31, 1981; the late Mr. Stephen Holmes Hendley of Gloucester Point, Virginia 1982–July 20, 1994, and Mr. Ronald Andrew Hendley of Orono, Maine, now of Merrimack, New Hampshire August 17, 1994–present;

Whereas, The William Meredith Hendley Clan has had the honor of seeing one association genealogist elected for The Hendley Family Association, Inc. Mrs. Linda Bess Havens-Hendley of Anaheim, California, now of Glasgow, Kentucky July 21, 1999–present;

Whereas, The William Meredith Hendley Clan has had the honor of having two of its members serve as Chaplains of the Association; Pastor Dan Dixon Hendley, M. Div. of the Covenant Presbyterian Church of Palm Bay, Florida June 11, 1982–October 1, 1988, and Reverend George Meredith Hendley, B. Div. of Dallas, Texas November 30, 1988–January 20, 1991. Reverend George Meredith Hendley sent the closing benediction in behalf of The Hendley Family Association for the Memorial Day dedication of stones honoring the founding family at their former homestead at Smellage Cemetery, Boma, Tennessee, Putnam County, August 26, 1994, it reads: "With respect and thankfulness we remember those ancestors who went before us to smooth the path, brighten the way, and lay a foundation for the generations yet to come. Living their lives with the view of making a better tomorrow for their children and grand children they forged out a lifestyle on the principles of truth that they knew and understood. We look back and remember the challenges they faced, the hardships they endured, and the rewards they enjoyed all while living the simple life. May their examples of wisdom, perseverance, faithfulness, and hope be a ready reminder to those of us who walk in their footsteps that we too have a responsibility to the generations that follow should our Lord and Savior tarry. To God be the glory in all things we do. Amen."

Whereas, The William Meredith Hendley Clan has had the honor of electing outstanding individuals to the national board of directors to be its representatives: they are: the late Mr. Stephen Holmes Hendley of Gloucester Point, Virginia 1976–1979; Mrs. Sarah Jane Hendley-Stafford of Martinsville, Indiana 1976–April 9, 1981, 1982–present; the late Mr. William Kenneth Hendley, Jr. of Indianapolis, Indiana 1982–January 7, 1992; Mr. Ronald Andrew Hendley of Orono, Maine January 7, 1992–August 17, 1994; Carol Ann Hendley-Eubank of Ark, Virginia August 17, 1994–present; and

Whereas, The William Meredith Hendley Clan and its members have supported local and state historical and community projects to enhance the lives of fellow Hoosiers including supporting The Childrens Museum's Halloween Fest. As of 2002, The William Meredith Hendley Clan has taken over direct administration of The Hendley Cemetery near Fountain Run, Kentucky, Monroe County. William Meredith Hendley's widow Sarah Wells-Hendley left this cemetery to his descendants, which was their home place from the time of the War Between the States and settlement of the Adin S. Hendley family in exile during the War: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana:*

SECTION 1. That the General Assembly of the State of Indiana conveys special recognition to the William Meredith Hendley Clan, a branch of The Hendley Family Association, Inc. on its 25th Anniversary, and to honor and commend its officers, past and present, as well as its general membership for its involvement in the communities, which have enhanced the lives of all Hoosiers.

SECTION 2. That the Principal Clerk of the Indiana House of Representatives shall transmit copies of this resolution to: Mrs. Edith L. Kirk, Clan Elder; Mr. Donald E. Hendley, Clan Chairman; Mrs. Priscilla Gail Hoagland, Clan Vice Chairman; Mrs. Linda B. Hendley, Clan Secretary; Mr. Ronald A. Hendley, National Vice President of The Hendley Family Association, Inc.; Mrs. Sarah J. Stafford and Mrs. Carol A. Eubank both of the National Board of Directors of The Hendley Family Association, Inc.; Rev. George M. Hendley; Pastor Dan D. Hendley; Mr. William K. Hendley, Sr.; Mrs. Sarah B. Hendley; Mr. William H. Hendley, National President, The Hendley Family Association, Inc.; and Kentucky Governor Ernie Fletcher.

The resolution was read a first time and adopted by voice vote.

House Resolution 7

Representative Messer introduced House Resolution 7:

A HOUSE RESOLUTION to honor the memory of Sergeant Jeremy Wright, 31, who lost his life during action in Afghanistan January 3, 2005.

Whereas, Sergeant Jeremy Wright served his country so that his fellow citizens could be secure;

Whereas, Sergeant Jeremy Wright's duty in Afghanistan allowed that country to move toward elections and democracy;

Whereas, Sergeant Jeremy Wright received several military decorations including the Purple Heart;

Whereas, Sergeant Jeremy Wright attended Southwestern High School in Shelby County and won the Indiana 3,200 meter championship;

Whereas, Sergeant Jeremy Wright was a three-time member of the U.S. Mountain Running Team;

Whereas, Sergeant Jeremy Wright won the NCAA Division III Great Lakes regional title in 1993;

Whereas, Sergeant Jeremy Wright was a two-time All-American in cross country at Wabash College;

Whereas, Sergeant Jeremy Wright is a member of the Wabash Athletics Hall of Fame;

Whereas, Sergeant Jeremy Wright graduated with honors from Wabash in 1996 with a major in chemistry; and

Whereas, Sergeant Jeremy Wright chose to dedicate his life to the fight for freedom and, like other fallen heroes, will be remembered forever for his sacrifice: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the people of Indiana wish to join with the friends and fellow servicemen and servicewomen of Sergeant Jeremy Wright and extend to his family sincere and heartfelt sympathy in this time of loss.

SECTION 2. That Sergeant Jeremy Wright has given his country the greatest gift there is—his life. His sacrifice will be remembered forever, and his courage will be held up as an example for others. He is truly an American hero.

SECTION 3. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the surviving family members of Sergeant Jeremy Wright.

The resolution was read a first time and adopted by voice vote.

House Resolution 8

Representative Duncan introduced House Resolution 8:

A HOUSE RESOLUTION to honor Dr. Mary McCullough for acting above and beyond her call of duty as a physician by walking two-miles through a snowstorm to deliver a baby.

Whereas, Dr. McCullough responded to the need of a patient upon hearing the patient's doctor was unable to get to the hospital due to the snowstorm;

Whereas, Dr. McCullough continued to walk to the hospital alone, with the exception of her dog, after her neighbors were unable to dig out from the storm and give her a ride to the hospital;

Whereas, Dr. McCullough assisted a stranded motorist both by attempting to get the vehicle out of the snow and by giving the motorist money to help him return to his home;

Whereas, Said motorist ultimately offered her a ride to the hospital allowing Dr. McCullough to arrive in time to deliver the baby;

Whereas, Dr. McCullough remained at the hospital for the duration of the night delivering two additional babies; and

Whereas, The community remains extremely grateful for the years

of exemplary and dedicated service provided by Dr. McCullough: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the House of Representatives of the General Assembly do honor Dr. Mary McCullough for her determination and dedication to perform her duties as a physician during the Winter Storm of 2004.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Dr. Mary McCullough.

The resolution was read a first time and adopted by voice vote.

REPORTS FROM COMMITTEES**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1077, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 1.

HOFFMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1125, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 12, after "3.5." insert "(a)".

Page 2, line 19, delete "has completed or is participating in a substance abuse" and insert "either:

(A) has completed; or

(B) is participating in;

substance abuse treatment provided by an addiction services provider certified by the division of mental health and addiction under IC 12-23 or by an addiction treatment services program operated by the federal government;".

Page 2, delete line 20.

Page 2, after line 21, begin a new paragraph and insert:

"(b) A court may order an individual to participate in substance abuse treatment under this section.".

(Reference is to HB 1125 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 4.

BUDAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 24, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1137, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the amendments adopted by the House Committee on Technology, Research, and Development on January 5, 2005.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 2-5-1.1-12.1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. The legislative council may contract with the ~~intelenet commission established by IC 5-21-2~~ **office of technology established by IC 4-13.1-2-1** or another public or private person to provide video or audio coverage, or both, over the Internet or another broadcast medium of any of the following:

- (1) Sessions of the general assembly.
- (2) Other legislative activities authorized by the legislative council.

SECTION 2. IC 4-4-29-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The council shall do the following:

- (1) Assist in developing goals and objectives for the tourism division of the department, including the following:

- (A) Development of Indiana's agricultural and horticultural base.
- (B) Job creation and retention in rural Indiana.
- (C) Development of agritourism opportunities to provide additional income for Indiana's agricultural and horticultural workers.
- (D) Product development, including the creation of outlets for the sale of crafts, foods, and other items produced in Indiana.
- (E) Preservation and development of historic rural resources in Indiana.
- (F) Local, national, and international direct marketing to increase revenue and enhance the viability of agricultural, horticultural, and agribusiness operations in Indiana.
- (G) Public education about the impact of agriculture and horticulture on a community's quality of life.
- (H) Capital and business assistance for agricultural, horticultural, and agribusiness workers to increase the viability, sustainability, and growth of agritourism businesses and services in Indiana.

- (2) Establish advisory groups to make recommendations to the department on tourism research, development, and marketing.
- (3) Analyze the results and effectiveness of grants made by the department.

- (4) Build commitment and unity among tourism industry groups.

- (5) Create a forum for sharing talent, resources, and ideas regarding tourism.

- (6) Encourage public and private participation necessary for the promotion of tourism.

- (7) Promote agritourism in Indiana to national and international visitors.

- (8) Sustain the viability and growth of the agritourism industry in Indiana.

- (9) Establish and promote an Internet web site that is linked to the computer gateway administered by the ~~intelenet commission under IC 5-21-2~~ and known as **accessIndiana: office of technology established by IC 4-13.1-2-1**.

- (10) Create regional agritourism development plans for the twelve (12) regional offices of the department.

- (11) Coordinate efforts to educate the public about agritourism and Indiana's agricultural heritage and history.

- (12) Provide information concerning funding opportunities, including grants, loans, and partnerships, to persons who are interested in starting an agritourism business or who operate an agritourism business.

- (13) Make recommendations to the department and the general assembly regarding any matter involving agritourism. Recommendations to the general assembly under this subdivision must be reported in an electronic format under IC 5-14-6.

- (14) Generate economic vitality and tourism activity for Indiana.

- (15) Position Indiana as the recognized agritourism center of the nation.

- (16) Make recommendations to the department regarding any matter involving tourism.

SECTION 3. IC 4-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~intelenet~~

~~commission established under IC 5-21-2 or the state enhanced data access review committee under IC 5-21-6~~ **office of technology established by IC 4-13.1-2-1** and the secretary of state shall establish policies and procedures for providing electronic and enhanced access under this chapter to create and maintain uniform policies and procedures for electronic and enhanced access by the public.

SECTION 4. IC 4-5-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Electronic and enhanced access to information shall be provided through the computer gateway administered by the ~~intelenet commission under IC 5-21-2~~ **office of technology established by IC 4-13.1-2-1**.

SECTION 5. IC 4-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The department shall, subject to this chapter, do the following:

- (1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data and information for the use of the executive department and the legislative department.

- (2) Supervise and regulate the making of contracts by state agencies.

- (3) Perform the property management functions required by IC 4-20.5-6.

- (4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.

- (5) Maintain and operate the following for state agencies:

- (A) Central duplicating.

- (B) Printing.

- (C) Machine tabulating.

- (D) Mailing services.

- (E) Centrally available supplemental personnel and other essential supporting services.

- ~~(F) Information services.~~

- ~~(G) Telecommunication services.~~

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund ~~the telephone rotary fund; and the data processing rotary fund~~ **are** established through which ~~these~~ services may be rendered to state agencies. The budget agency shall determine the amount for ~~each~~ **the general services** rotary fund.

- (6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

- (7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

- (A) Per diem.

- (B) For expenses necessarily and actually incurred.

- (C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

- (8) Administer IC 4-13.6.

- (9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.

- (10) Rent out, with the approval of the governor, any state property, real or personal:

- (A) not needed for public use; or

- (B) for the purpose of providing services to the state or employees of the state;

the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the

commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.

(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.

(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:

(A) inspect;

(B) regulate their operation; and

(C) recommend improvements to those plants to promote economical and efficient operation.

(15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.

SECTION 6. IC 4-13-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "Internet purchasing site" means an open and interactive electronic environment that is:

(1) designed to facilitate the purchase and sale of supplies conducted under IC 5-22;

(2) approved and managed by the department; and

(3) linked to the ~~electronic computer~~ gateway administered by the ~~internet commission~~ established by ~~IC 5-21-2-1~~. **office of technology established by IC 4-13.1-2-1.**

SECTION 7. IC 4-13-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The department shall provide authorized users and the public with access to Internet purchasing sites by links to the ~~electronic computer~~ gateway administered by the ~~internet commission~~. **office of technology established by IC 4-13.1-2-1.**

SECTION 8. IC 4-13-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The following shall cooperate with the department to implement this chapter:

(1) The ~~internet commission~~. **office of technology established by IC 4-13.1-2-1.**

(2) The state board of accounts.

(3) The attorney general.

(4) The auditor of state.

SECTION 9. IC 4-13.1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 13.1. OFFICE OF TECHNOLOGY

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Information technology" includes the resources, technologies, and services associated with the fields of:

(1) information processing;

(2) office automation; and

(3) telecommunication facilities and networks.

Sec. 3. "Office" means the office of technology established by IC 4-13.1-2-1.

Sec. 4. (a) "State agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of the executive, including the administrative, department of state government.

(b) The term does not include:

(1) the judicial or legislative departments of state government; or

(2) a state educational institution (as defined in IC 20-12-0.5-1).

Sec. 5. "Telecommunication" means the transmission of any document, picture, datum, sound, or other symbol by television, radio, microwave, optical, or other electromagnetic signal.

Chapter 2. Office of Technology

Sec. 1. The office of technology is established for the following purposes:

(1) Align the technology infrastructure of the state.

(2) Stabilize lines of information technology management within government.

(3) Focus state information technology services to improve service levels to citizens and lower the costs of providing information technology services.

(4) Bring the best technology solutions to bear on state technology applications.

(5) Improve and expand government services provided electronically.

(6) Make it easy for the state to do business with the greatest security possible.

Sec. 2. (a) The office shall do the following:

(1) Develop and maintain overall strategy and architecture for the use of information technology in state government.

(2) Review all state agency budget requests and proposed contracts relating to information technology.

(3) Coordinate state information technology master planning.

(4) Maintain an inventory of information technology resources and expenditures.

(5) Manage a computer gateway known as accessIndiana solely to carry out or facilitate the carrying out of the essential public, educational, and governmental functions.

(6) Provide technical staff support services for each state agency in conjunction with the information technology director or other similar knowledgeable person of each state agency.

(7) Provide any service provided by the office, including accessIndiana, with the consent of the chief information officer, upon request to the following:

(A) The judicial department of state government.

(B) The legislative department of state government.

(C) A state educational institution (as defined in IC 20-12-0.5-1).

(D) A political subdivision (as defined in IC 36-1-2-13).

(E) A body corporate and politic created by statute.

(F) An entity created by the state.

(8) Monitor trends and advances in information technology.

(9) Monitor state agency information technology activities.

(10) Develop and maintain policies, procedures, and guidelines for the effective and secure use of information technology in state government.

(11) Develop and maintain guidelines for the hiring of information technology staff in state agencies.

(12) Conduct periodic management reviews of information technology activities within state agencies.

(13) Seek funding for technology services from the following:

(A) Grants.

(B) Federal sources.

(C) Gifts, donations, and bequests.

(D) Partnerships with other governmental entities or the private sector.

(E) Appropriations.

(F) Any other source of funds.

(14) Establish a reasonable fee for enhanced access to public records and other electronic records, so that user fee revenue from all electronic transactions subject to the fee established under this section is sufficient to develop, maintain, operate, and expand technology services.

(15) Perform other related functions and duties as directed by the chief information officer of the office appointed under section 3 of this chapter.

(b) The office may adopt rules under IC 4-22-2 that are necessary or appropriate in carrying out its powers and duties.

Sec. 3. (a) The governor shall appoint a chief information officer of the office, who serves at the pleasure of the governor.

(b) The chief information officer:

- (1) is the executive head of the office;
- (2) is responsible for strategic planning and the architecture of all information technology functions of state government; and
- (3) shall provide leadership in the areas of:
 - (A) finance;
 - (B) procurement;
 - (C) asset inventory; and
 - (D) accountability;

for all information technology areas and issues facing state agencies.

Sec 4. (a) For purposes of this section, "council" means the information technology leadership council created by subsection (b).

(b) The information technology leadership council is created to advise the chief information officer appointed under section 3 of this chapter when the chief information officer seeks advice.

(c) The council consists of the following members:

- (1) The chief information officer of the office, who shall serve as chairperson of the council.
- (2) A member of the attorney general's staff to be appointed by the attorney general.
- (3) A member of the auditor's staff to be appointed by the auditor.
- (4) The director of the budget agency or the director's designee.
- (5) The commissioner of the department of administration or the commissioner's designee.
- (6) The state superintendent of public instruction or the superintendent's designee.

(d) The council shall meet at the call of the chairperson.

Sec. 5. (a) State agencies shall use information technology services provided by the office.

(b) State agencies shall submit all information technology related budget requests to the office. Requests submitted under this subsection:

- (1) shall be reviewed by; and
- (2) are subject to the approval of;

the office before submission to the budget agency in preparation of requests for appropriations.

(c) State agencies shall submit all information technology related proposed contracts to the office. Contracts submitted under this subsection:

- (1) shall be reviewed by; and
- (2) are subject to the approval of;

the office. The requirements of this subsection are in addition to the rules adopted by the department of administration. The department of administration may not adopt a procurement rule that is duplicative or inconsistent with rules adopted by the office.

(d) State agencies shall submit all other information technology related requests to the office. Requests submitted under this subsection:

- (1) shall be reviewed by; and
- (2) are subject to the approval of;

the office.

(e) The office may not approve a request or contract submitted under this section unless the request or contract complies with the accessibility standards developed under IC 4-13.1-3.

Sec. 6. (a) The office may require the director of information technology services or another knowledgeable individual employed by a state agency to advise and assist the office in carrying out the functions of the office.

(b) State agencies shall consult with the office concerning hiring information technology directors and staff.

(c) At the request of the office, a state agency shall submit an information technology resource inventory to the office, including all information technology hardware, software, technical personnel, and information technology contracts.

Sec. 7. (a) The office may establish one (1) or more rotary funds necessary to perform the functions of the office.

(b) The budget agency shall determine the amount of funding for a rotary fund established under subsection (a).

Chapter 3. Accessibility Standards

Sec. 1. (a) The office shall develop standards that are compatible with principles and goals contained in the electronic and information technology accessibility standards adopted by the architectural and transportation barriers compliance board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended. The office shall adopt rules under IC 4-22-2 concerning the standards developed under this section. The standards must conform with the requirements of Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended.

(b) If a state agency cannot comply with the information technology accessibility standards within a reasonable time without undue burden, the state agency shall submit a plan to the office, including the proposed time for later compliance with the standards. A plan submitted under this subsection must provide alternative means for accessibility during the period when the plan will be in effect.

(c) Notwithstanding any other law, the standards developed under subsection (a) apply to the executive, legislative, judicial, and administrative branches of state and local government.

SECTION 10. IC 4-13.6-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section applies only to public works contracts bid under section 2 of this chapter.

(b) The division shall solicit sealed bids by public notice inserted once each week for two (2) successive weeks before the final date of submitting bids in:

- (1) one (1) newspaper of general circulation in Marion County, Indiana; and
- (2) if any part of the project is located in an area outside Marion County, Indiana, one (1) newspaper of general circulation in that area.

The commissioner shall designate the newspapers for these publications. The commissioner may designate different newspapers according to the nature of the project and may direct that additional notices be published.

(c) The division shall also solicit sealed bids for public works projects by:

- (1) sending notices by mail to prospective contractors known to the division;
- (2) posting notices on a public bulletin board in its office; and
- (3) providing electronic access to notices through the computer gateway administered by the ~~intelenet commission under IC 5-21-2~~ **office of technology established by IC 4-13.1-2-1;**

at least seven (7) days before the final date for submitting bids for the public works project.

SECTION 11. IC 4-34-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Money in the fund shall be allocated annually to the ~~intelenet commission (IC 5-21-2-1)~~ **office of technology established by IC 4-13.1-2-1** to make matching grants to school corporations or to make payments directly to vendors for Internet connections and related equipment for a school corporation. The ~~intelenet commission~~ **office of technology** shall develop a plan to implement grants under this section. The budget committee shall review the plan. The budget agency must approve of the plan.

SECTION 12. IC 5-2-6-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) The sex and violent offender directory established under section 3 of this chapter must include the names of each offender who is or has been required to register under IC 5-2-12.

(b) The institute shall do the following:

- (1) Update the directory at least one (1) time every six (6) months.
- (2) Publish the directory on the Internet through the computer gateway administered by the ~~intelenet commission under IC 5-21-2~~ and known as ~~Access Indiana~~ **office of technology established by IC 4-13.1-2-1.**
- (3) Make the directory available on a computer disk and, at least one (1) time every six (6) months, send a copy of the computer disk to the following:

- (A) All school corporations (as defined in IC 20-1-6-1).
- (B) All nonpublic schools (as defined in IC 20-10.1-1-3).

(C) All state agencies that license individuals who work with children.

(D) The state personnel department to screen individuals who may be hired to work with children.

(E) All child care facilities licensed by or registered in the state.

(F) Other entities that:

(i) provide services to children; and

(ii) request the directory.

(4) Maintain a hyperlink on the institute's computer web site that permits users to connect to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5.

(5) Make a paper copy of the directory available upon request.

(c) A copy of the directory:

(1) provided to a child care facility under subsection (b)(3)(E);

(2) provided to another entity that provides services to children under subsection (b)(3)(F); or

(3) that is published on the Internet under subsection (b)(2);

must include the home address of an offender whose name appears in the directory.

(d) When the institute publishes on the Internet or distributes a copy of the directory under subsection (b), the institute shall include a notice using the following or similar language:

"Based on information submitted to the criminal justice institute, a person whose name appears in this directory has been convicted of a sex offense or a violent offense or has been adjudicated a delinquent child for an act that would be a sex offense or violent offense if committed by an adult."

SECTION 13. IC 5-3-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) In all cases where notices are required by law to be published in the public newspaper by or under the supervision of any state officer, board, commission, or institution of the state of Indiana, said notices are hereby required to be published in each of two (2) daily newspapers published in the city of Indianapolis and in such other cities as is required by law, said notices to be in all cases published in two (2) newspapers in each city where they are required to be published. In all cases where the officer, board, commission, or institution making said publication is located outside of the city of Indianapolis, said notices shall also be published in newspapers published within the county where said officer, board, commission, or institution maintains its office. The rate charged for all such notices and advertising shall be the same as is set out in section 1 of this chapter.

(b) In addition to the requirements of subsection (a), a state officer, board, commission, or institution of the state of Indiana that is required by law to publish a notice of a public meeting shall also provide electronic access to the notice through the computer gateway administered by the ~~intelnet commission under IC 5-21-2~~; **office of technology established by IC 4-13.1-2-1**.

SECTION 14. IC 5-14-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency by:

(1) posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and

(2) delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. The governing body shall give notice by one (1) of the following methods:

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail.

(C) Transmitting the notice by facsimile (fax).

If a governing body comes into existence after January 1, it shall comply with this subdivision upon receipt of a written request for notice.

In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the ~~intelnet commission under IC 5-21-2~~; **office of technology established by IC 4-13.1-2-1**.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to this section.

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to:

(1) the department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation; or

(2) the executive of a county or the legislative body of a town if the meetings are held solely to receive information or recommendations in order to carry out administrative functions, to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

SECTION 15. IC 5-14-3-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

(1) Secretary of state.

(2) Auditor.

(3) Treasurer.

(4) Attorney general.

(5) Superintendent of public instruction.

However, each state office described in subdivisions (1) through (5) and the judicial department of state government may use the computer gateway administered by the ~~intelnet commission established under IC 5-21-2~~; **office of technology established by IC 4-13.1-2-1**, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

(1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).

(2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:

(A) the third party; or

(B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

- (1) Unauthorized enhanced access to public records.
- (2) Unauthorized alteration of public records.
- (3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the ~~intelenet commission established under IC 5-21-2, except as permitted by the data process oversight commission established under IC 4-23-16-1.~~ **office of technology.**

SECTION 16. IC 5-14-3-3.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.6. (a) As used in this section "public agency" does not include a state agency (as defined in section 3.5(a) of this chapter).

(b) As an additional means of inspecting and copying public records, a public agency may provide enhanced access to public records maintained by the public agency.

(c) A public agency may provide a person with enhanced access to public records if any of the following apply:

- (1) The public agency provides enhanced access to the person through its own computer gateway and provides for the protection of public records under subsection (d).
- (2) The public agency has entered into a contract with a third party under which the public agency provides enhanced access to the person through the third party's computer gateway or otherwise, and the contract between the public agency and the third party provides for the protection of public records in accordance with subsection (d).

(d) A contract entered into under this section and any other provision of enhanced access must provide that the third party and the person will not engage in the following:

- (1) Unauthorized enhanced access to public records.
- (2) Unauthorized alteration of public records.
- (3) Disclosure of confidential public records.

(e) A contract entered into under this section or any provision of enhanced access may require the payment of a reasonable fee to either the third party to a contract or to the public agency, or both, from the person.

(f) A public agency may provide enhanced access to public records through the computer gateway administered by the ~~intelenet commission established under IC 5-21-2.~~ **office of technology established by IC 4-13.1-2-1.**

SECTION 17. IC 5-15-5.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Subject to approval by the oversight committee on public records created by section 18 of this chapter, the commission shall do the following:

- (1) Establish a forms management program for state government and approve the design, typography, format, logo, data sequence, form analysis, form number, and agency file specifications of each form.
- (2) Establish a central state form numbering system and a central cross index filing system of all state forms, and standardize, consolidate, and eliminate, wherever possible, forms used by state government.
- (3) Approve, provide, and in the manner prescribed by IC 5-22, purchase photo-ready copy for all forms.
- (4) Establish a statewide records management program, prescribing the standards and procedures for record making and record keeping. However, the investigative and criminal history records of the state police department are exempted from this requirement.
- (5) Coordinate utilization of all micrographics equipment in state government.
- (6) Assist the Indiana department of administration in coordinating utilization of all duplicating and printing equipment in the executive and administrative branches.
- (7) Advise the Indiana department of administration with respect to the purchase of all records storage equipment.
- (8) Establish and operate a distribution center for the receipt, storage, and distribution of all material printed for an agency.
- (9) Establish and operate a statewide archival program to be called the Indiana state archives for the permanent government records of the state, provide consultant services for archival

programs, conduct surveys, and provide training for records coordinators.

(10) Establish and operate a statewide record preservation laboratory.

(11) Prepare, develop, and implement record retention schedules.

(12) Establish and operate a central records center to be called the Indiana state records center, which shall accept all records transferred to it, provide secure storage and reference service for the same, and submit written notice to the applicable agency of intended destruction of records in accordance with approved retention schedules.

(13) Demand, from any person or organization or body who has illegal possession of original state or local government records, those records, which shall be delivered to the commission.

(14) Have the authority to examine all forms and records housed or possessed by state agencies for the purpose of fulfilling the provisions of this chapter.

(15) In coordination with the ~~data processing oversight commission created under IC 4-23-16,~~ **office of technology established by IC 4-13.1-2-1,** establish standards to ensure the preservation of adequate and permanent computerized and auxiliary automated information records of the agencies of state government.

(16) Notwithstanding IC 5-14-3-8, establish a schedule of fees for services provided to patrons of the Indiana state archives. A copying fee established under this subdivision may exceed the copying fee set forth in IC 5-14-3-8(c).

(b) In implementing a forms management program, the commission shall follow procedures and forms prescribed by the federal government.

(c) Fees collected under subsection (a)(16) shall be deposited in the state archives preservation and reproduction account established by section 5.3 of this chapter.

SECTION 18. IC 5-15-5.1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The oversight committee on public records consists ex officio of:

- (1) the governor or ~~his~~ **the governor's** designee;
- (2) the secretary of state or ~~his~~ **the secretary's** designee;
- (3) the state examiner of the state board of accounts or ~~his~~ **the state examiner's** designee;
- (4) the director of the state library;
- (5) the director of the historical bureau;
- (6) the director of the commission on public records;
- (7) the commissioner of the department of administration or ~~his~~ **the commissioner's** designee;
- (8) the public access counselor; and
- (9) the ~~executive director of the data processing oversight commission~~ **chief information officer of the office of technology appointed under IC 4-13.1-2-3** or the ~~executive director's chief information officer's~~ designee.

(b) The oversight committee also consists of two (2) lay members appointed by the governor for a term of four (4) years. One (1) lay member shall be a professional journalist or be a member of an association related to journalism.

(c) The oversight committee shall elect one (1) of its members to be chairman. The director of the commission on public records shall be the secretary of the committee. The ex officio members of the oversight committee shall serve without compensation and shall receive no reimbursement for any expense which they may incur. Each lay member is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures, established by the department of administration and approved by the ~~state~~ budget agency and each lay member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

SECTION 19. IC 5-22-2-13.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13.2. "Office of technology" refers to the office of technology established by IC 4-13.1-2-1.**

SECTION 20. IC 5-22-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the ~~electronic computer gateway administered by the intelenet commission~~ **office of technology**.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

- (1) the ~~electronic computer gateway administered by the intelenet commission as determined by the commission~~ **office of technology**; or
- (2) any other electronic means available to the political subdivision.

SECTION 21. IC 5-22-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The purchasing agency shall give public notice of the request for proposals in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the ~~electronic computer gateway administered by the intelenet commission~~ **office of technology**.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through the electronic gateway administered by the ~~intelenet commission as determined by the commission~~ **office of technology**.

SECTION 22. IC 5-27-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This article applies to a governmental body that conducts a transaction through the computer gateway administered by the ~~intelenet commission~~ **office of technology established by IC 4-13.1-2-1**.

SECTION 23. IC 5-27-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A governmental body may accept electronic payment for a service, a tax, a license, a permit, a fee, information, or any other amount due the governmental body for a transaction conducted through the computer gateway administered by the ~~intelenet commission~~ **office of technology established by IC 4-13.1-2-1**.

SECTION 24. IC 5-27-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A governmental body may enter into a contract with a provider company to enable the governmental body to accept an electronic payment.

(b) A governmental body must use the provider company provided or specified by the ~~network manager established by the intelenet commission under IC 5-21-2-2(e)~~ **office of technology established by IC 4-13.1-2-1** to accept an electronic payment submitted to the governmental body as payment for a fee based service, license, or permit or for fee based information obtained through electronic access.

SECTION 25. IC 6-8.1-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) The department shall prepare a list of all outstanding tax warrants for listed taxes each month. The list shall identify each taxpayer liable for a warrant by name, address, amount of tax, and either Social Security number or employer identification number. Unless the department renews the warrant, the department shall exclude from the list a warrant issued more than ten (10) years before the date of the list. The department shall certify a copy of the list to the bureau of motor vehicles.

(b) The department shall prescribe and furnish tax release forms for use by tax collecting officials. A tax collecting official who collects taxes in satisfaction of an outstanding warrant shall issue to the taxpayers named on the warrant a tax release stating that the tax has been paid. The department may also issue a tax release:

- (1) to a taxpayer who has made arrangements satisfactory to the department for the payment of the tax; or
 - (2) by action of the commissioner under IC 6-8.1-8-2(k).
- (c) The department may not issue or renew:

- (1) a certificate under IC 6-2.5-8;
- (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or
- (3) a permit under IC 6-6-4.1;

to a taxpayer whose name appears on the most recent monthly warrant list, unless that taxpayer pays the tax, makes arrangements satisfactory to the department for the payment of the tax, or a release is issued under IC 6-8.1-8-2(k).

(d) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly warrant list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder unless the bureau has received notice from the commissioner under IC 6-8.1-8-2(k). The tax lien on the title:

- (1) is subordinate to a perfected security interest (as defined and perfected in accordance with IC 26-1-9.1); and
- (2) shall otherwise be treated in the same manner as other title liens.

(e) The commissioner is the custodian of all titles for which the state is the sole lienholder under this section. Upon receipt of the title by the department, the commissioner shall notify the owner of the department's receipt of the title.

(f) The department shall reimburse the bureau of motor vehicles for all costs incurred in carrying out this section.

(g) Notwithstanding IC 6-8.1-8, a person who is authorized to collect taxes, interest, or penalties on behalf of the department under IC 6-3 or IC 6-3.5 may not, except as provided in subsection (h) or (i), receive a fee for collecting the taxes, interest, or penalties if:

- (1) the taxpayer pays the taxes, interest, or penalties as consideration for the release of a lien placed under subsection (d) on a motor vehicle title; or
- (2) the taxpayer has been denied a certificate or license under subsection (c) within sixty (60) days before the date the taxes, interest, or penalties are collected.

(h) In the case of a sheriff, subsection (g) does not apply if:

- (1) the sheriff collects the taxes, interest, or penalties within sixty (60) days after the date the sheriff receives the tax warrant; or
- (2) the sheriff collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(i) In the case of a person other than a sheriff:

- (1) subsection (g)(2) does not apply if the person collects the taxes, interests, or penalties within sixty (60) days after the date the commissioner employs the person to make the collection; and
- (2) subsection (g)(1) does not apply if the person collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting information from disclosure by the department does not apply to this subsection. From the list prepared under subsection (a), the department shall compile each month a list of the taxpayers subject to tax warrants that:

- (1) were issued at least twenty-four (24) months before the date of the list; and
- (2) are for amounts that exceed one thousand dollars (\$1,000).

The list compiled under this subsection must identify each taxpayer liable for a warrant by name, address, and amount of tax. The department shall publish the list compiled under this subsection on accessIndiana (as ~~defined in IC 5-21-1-1.5~~ **operated under IC 4-13.1-4**) and make the list available for public inspection and copying under IC 5-14-3. The department or an agent, employee, or officer of the department is immune from liability for the publication of information under this subsection.

(k) The department may not publish a list under subsection (j) that identifies a particular taxpayer unless at least two (2) weeks before the publication of the list the department sends notice to the taxpayer stating that the taxpayer:

- (1) is subject to a tax warrant that:
 - (A) was issued at least twenty-four (24) months before the date of the notice; and
 - (B) is for an amount that exceeds one thousand dollars (\$1,000); and
- (2) will be identified on a list to be published on accessIndiana unless a tax release is issued to the taxpayer under subsection (b).

(l) The department may not publish a list under subsection (j) after June 30, 2006.

SECTION 26. IC 10-13-3-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

- (1) that has been in existence for at least ten (10) years; and
- (2) that:
 - (A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;
 - (B) is a home health agency licensed under IC 16-27-1;
 - (C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);
 - (D) is a supervised group living facility licensed under IC 12-28-5;
 - (E) is an area agency on aging designated under IC 12-10-1;
 - (F) is a community action agency (as defined in IC 12-14-23-2);
 - (G) is the owner or operator of a hospice program licensed under IC 16-25-3; or
 - (H) is a community mental health center (as defined in IC 12-7-2-38).

(b) Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or nonpublic school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

- (1) by a state agency; and
- (2) through the computer gateway that is administered by the ~~internet commission under IC 5-21-2 and known as accessIndiana~~; **office of technology established by IC 4-13.1-2-1.**

(e) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:

- (1) made through the computer gateway that is administered by the ~~internet commission under IC 5-21-2 and known as accessIndiana~~; **office of technology**; and
- (2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).

SECTION 27. IC 20-10.1-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The educational technology program and fund is established for the purpose of providing and extending educational technologies to elementary and secondary schools for:

- (1) the 4R's technology grant program to assist school corporations (on behalf of public schools) in purchasing technology equipment:

- (A) for kindergarten and grade 1 students, to learn reading, writing, and arithmetic using technology;
- (B) for students in all grades, to understand that technology is a tool for learning; and
- (C) for students in kindergarten through grade 3 who have been identified as needing remediation, to offer daily remediation opportunities using technology to prevent those students from failing to make appropriate progress at the particular grade level;

- (2) providing educational technologies, including computers in the homes of students;
- (3) conducting educational technology training for teachers; and
- (4) other innovative educational technology programs.

(b) The department may also utilize money in the fund under contracts entered into with the ~~Indiana department of administration and the state data processing oversight commission~~ **office of technology established by IC 4-13.1-2-1** to study the feasibility of establishing an information telecommunications gateway that provides access to information on employment opportunities, career development, and instructional services from data bases operated by the state among the following:

- (1) Elementary and secondary schools.
- (2) Institutions of higher learning.
- (3) Vocational educational institutions.
- (4) Libraries.
- (5) Any other agencies offering education and training programs.

(c) The fund consists of:

- (1) state appropriations;
- (2) private donations to the fund;
- (3) money directed to the fund from the corporation for educational technology under IC 20-10.1-25.1; or
- (4) any combination of the amounts described in subdivisions (1) through (3).

(d) The program and fund shall be administered by the department.

(e) Unexpended money appropriated to or otherwise available in the fund for the department's use in implementing the program under this chapter at the end of a state fiscal year does not revert to the state general fund but remains available to the department for use under this chapter.

(f) Subject to section 1.2 of this chapter, a school corporation may use money from the school corporation's capital projects fund as permitted under IC 21-2-15-4 for educational technology equipment.

SECTION 28. IC 20-10.1-25.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "telecommunications services and equipment" includes all telecommunication services and equipment eligible for universal service fund discounts as described:

- (1) in the federal Telecommunications Act of 1996 (P.L.104-104, 110 Stat. 56 (1996)) and applicable regulations or orders issued under that act;
- (2) by the Indiana utility regulatory commission as allowed under the federal act; or
- (3) in the ~~internet commission~~ **office of technology established by IC 4-13.1-2-1** or state library technology grant programs.

SECTION 29. IC 20-10.1-25.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~internet commission~~; **office of technology established by IC 4-13.1-2-1**, with the department of education and the state library, shall coordinate available federal and state funds and funding mechanisms to accomplish full access to telecommunications services and equipment by all schools, libraries, and rural health care providers as defined in:

- (1) the federal Telecommunications Act of 1996 (P.L.104-104, 110 Stat. 56 (1996)) and regulations or orders issued under that act; or
- (2) any regulations or orders issued by the Indiana utility regulatory commission in fulfillment of the state's obligations under the act.

SECTION 30. IC 20-12-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) **As used in this chapter, "electronic format" means a format using the most appropriate technological medium.**

(b) As used in this chapter:

(1) "chief information officer" means the chief information officer of the office of technology appointed under IC 4-13.1-2-3; and

(2) "office of technology" refers to the office of technology established by IC 4-13.1-2-1.

~~(a)~~ (c) The trustees of Indiana University, the trustees of Purdue University, the University of Southern Indiana board of trustees, Ball State University board of trustees, Indiana State University board of trustees, the board of trustees of Vincennes University, the board of trustees of Ivy Tech State College, and the board of directors of the independent colleges and universities of Indiana (referred to collectively in this chapter as the universities) are authorized, if they find the need exists for a broad dissemination of a wide variety of educational communications for the improvements and the advancement of higher educational opportunity, to jointly arrange from time to time, for a period not exceeding ten (10) years, for ~~internet services under IC 5-21~~ services provided by the office of technology and for the use of a multipurpose, multimedia, closed circuit, statewide telecommunications system furnished by communications common carriers subject to the jurisdiction of the utility regulatory commission to interconnect the main campuses and the regional campuses of the universities and centers of medical education and service.

~~(b)~~ (d) In addition to the closed circuit statewide telecommunications system described in subsection ~~(a)~~, (c), the universities shall establish, in accordance with federal copyright law, ~~a videotape program programs in an electronic format~~ to provide for the advancement of higher education opportunity and individualized access to higher education programs. As part of the program, the universities may make available a wide variety of higher education courses in ~~videotape form~~: **electronic format**. The universities shall make ~~the videotapes~~ **information in an electronic format** available to the public by any means of public or private distribution that they determine to be appropriate, including sale or lease. The universities may determine policy and establish procedures in order to administer this program. The universities shall maintain and keep current a listing of all ~~videotapes~~: **information in an electronic format**.

~~(c)~~ (e) The transmission system shall be for the exclusive use of the universities. However, the universities may permit the use of the transmission system, or any ~~portion~~ **part** of the transmission system, by others under section 4 of this chapter.

SECTION 31. IC 20-12-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The transmission system described in ~~section 1(a)~~ **section 1(c)** of this chapter must be designed to permit the installation of additional capacity and coverage as accumulating communication needs of higher education may require. The system must be capable of transmitting high fidelity television signals, high fidelity sound signals, data signals for computer communications, and voice traffic, and must include control circuits.

(b) The arrangements for the use of the system may be upon terms and conditions as the universities determine are necessary, proper, or desirable.

(c) No plan or arrangements for the use of the telecommunications system may be adopted or entered into under this chapter without the specific approval of the ~~governor, the state budget committee, and the state budget agency~~: **office of technology**.

SECTION 32. IC 20-12-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The universities shall establish a coordinating unit or other body composed of persons that the universities select. **The chief information officer or the chief information officer's designee shall be a member of any coordinating unit created under this section.** This committee or other body has the authority to administer and supervise the use of the transmission system and the ~~videotape program~~ **information in electronic format** described in section 1 of this chapter as may be from time to time delegated to it by the universities. The universities shall have equal representation on the coordinating unit or body.

(b) There must also be an advisory council of representatives of users of the transmission system, **which must include the chief**

information officer or the chief information officer's designee.

SECTION 33. IC 20-12-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Any arrangements for the use of the telecommunications system or the ~~videotape program~~ **information in electronic format** described in section 1 of this chapter must provide that the universities, or any committee or other body established under section 3 of this chapter (if the power is so delegated to them), may permit any of the following entities to use the telecommunications system or the ~~videotape program~~ **information in electronic format** for educational purposes:

- (1) Institutions of higher education.
- (2) Governmental or public corporations or bodies.
- (3) Other corporations.
- (4) Partnerships.
- (5) Associations.
- (6) Trusts.
- (7) Limited liability companies.
- (8) Other persons.

~~(b)~~ (c) **Any use for any entity other than an entity in subsection (a)(1) and (a)(2) may be permitted only if there is a finding by a coordinating unit or body established under section 3 of this chapter that determines that no other provider of the services is available or that using another provider would create an undue hardship on the user.**

~~(b)~~ (c) Any use permitted under this section is subject to the rules, regulations, fees, and charges as the universities, committee, or other body may prescribe.

~~(c)~~ (d) Each entity that uses the transmission system is responsible for the origination of the program to be transmitted by that entity and for the reception and utilization of the program at the destination.

~~(d)~~ (e) The payment of all costs in excess of the cost of the use of the transmission system facilities and the ~~videotape program~~ **information in electronic format** shall be borne by the parties using the system as agreed upon.

SECTION 34. IC 20-12-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) In connection with the use of the telecommunications system, the ~~videotape program~~ **information in electronic format** described in section 1 of this chapter, or any other related matter, the universities may accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and may accept funds under terms and conditions that the universities determine are necessary or desirable from any federal agency.

(b) The universities may enter into and carry out contracts and agreements in connection with this chapter. **All contracts and agreements entered into must be approved by the coordinating unit established by section 3(a) of this chapter.**

SECTION 35. IC 20-12-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A special and distinct fund is hereby created to be known as the higher education statewide telecommunications fund. Expenditures from the fund may be made only for the following:

- (1) Payments by the universities for the use of a telecommunications system or the lease, purchase, rental, or production of ~~a videotape program~~ **information in an electronic format** as provided in this chapter.
- (2) Studies regarding the possibilities of extending the use of the telecommunications system described in ~~section 1(a)~~ **section 1(c)** of this chapter to other colleges and universities in Indiana and of extending the use of the system for post-high school and other educational uses.
- (3) The expenses of coordinating, planning, and supervising the use of the telecommunications system, and the ~~videotape program~~ **information in electronic format**.
- (4) Equipment for the originating and receiving of instructional communication and educational information by means of the telecommunications system and the ~~videotape program~~ **information in electronic format**.

(b) The state auditor shall pay, as needed, from the fund amounts to the trustees of Indiana University as agent for the universities. The trustees of Indiana University as the agent shall apply the funds to the payment of items as payment becomes due from the higher education

statewide telecommunications fund.

SECTION 36. IC 22-4-19-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) The department may make available through the enhanced electronic access system established by the ~~intelnet commission under IC 5-2-1~~ **office of technology established by IC 4-13.1-2-1** secure electronic access for creditors to employer provided information on the amount of wages paid by an employer to an employee.

(b) The enhanced electronic access system established by the ~~intelnet commission under IC 5-2-1~~ **office of technology** may enter into a contract with one (1) or more private entities to allow private entities to provide secure electronic access to employer provided information held by the department on the amount of wages paid by an employer to an employee.

(c) A creditor may obtain wage report information from a private entity if the creditor first obtains written consent from the employee whose information the creditor seeks to obtain. A creditor that has entered into a contract with the enhanced electronic access system must retain a written consent received under this section for at least three (3) years or for the length of the loan if the loan is for less than three (3) years.

(d) Written consent from the employee must include the following:

- (1) A statement that the written consent is the authorization for the creditor to obtain information on the employee's employment and wage history.
- (2) A statement that the information is obtained solely for the purpose of reviewing a specific application for credit.
- (3) Notification that state agency files containing employment and wage history will be accessed to provide the information.
- (4) A listing of all parties that will receive the information obtained.

(e) Information under this section may only be released to a creditor for the purpose of satisfying the standard underwriting requirements of the creditor or a client of the creditor for one (1) credit transaction per employee written consent.

(f) The costs of implementing and administering the release of information must be paid by the private entity or entities that contract with the enhanced electronic access system established by the ~~intelnet commission under IC 5-2-1~~ **office of technology**.

(g) For employee information under this section, a private entity that enters a contract with the enhanced electronic access system established by the ~~intelnet commission under IC 5-2-1~~ **office of technology** for release of employee information must comply with:

- (1) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);
- (2) all state and federal privacy laws; and
- (3) the rules regarding the release of information adopted by the United States Department of Labor.

(h) A private entity that has entered into a contract with the enhanced electronic access system under subsection (b) must maintain a consent verification system that audits at least five percent (5%) of daily transactions and must maintain a file of audit procedures and results.

(i) A person who violates this section commits a Class A infraction.

SECTION 37. IC 24-3-5.4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Not later than July 1 of each year, the attorney general shall make available to the public by publishing on accessIndiana (as ~~defined in IC 5-2-1-1.5~~) **operated under IC 4-13.1-4**) a directory listing all brand families listed in certifications filed under section 13 of this chapter.

(b) A directory described in subsection (a) shall not include the name or brand families of a nonparticipating manufacturer:

- (1) that fails to comply with section 13 of this chapter; or
- (2) whose certification fails to comply with section 13(c) or 13(e) of this chapter, unless the attorney general determines that the failure has been remedied.

(c) The directory may not include a tobacco product manufacturer or a brand family if the attorney general concludes that:

- (1) in the case of a nonparticipating manufacturer, all escrow payments required under IC 24-3-3-12 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been

approved by the attorney general; or

(2) all outstanding final judgments, including interest on the judgments, for violations of IC 24-3-3 have not been fully satisfied for the tobacco product manufacturer or brand family.

(d) The attorney general shall update the directory as necessary to correct mistakes or to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this chapter.

(e) The attorney general shall post in the directory and transmit by electronic mail or other means to each distributor or stamping agent notice of any removal from the directory of a tobacco product manufacturer or brand family not later than thirty (30) days before the attorney general removes the tobacco product manufacturer or brand family from the directory.

(f) Unless otherwise provided in an agreement between a tobacco product manufacturer and a distributor or stamping agent, a distributor or stamping agent is entitled to a refund from a tobacco product manufacturer for any money paid by the distributor or stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer or brand family that:

- (1) are in the possession of the distributor or stamping agent on;
- or
- (2) the distributor or stamping agent receives from a retailer after;

the date on which the tobacco product manufacturer or brand family is removed from the directory.

(g) Unless otherwise provided in an agreement between a retailer and a distributor, stamping agent, or tobacco product manufacturer, a retailer is entitled to a refund from a distributor, stamping agent, or tobacco product manufacturer for any money paid by the retailer to the distributor, stamping agent, or tobacco product manufacturer for any cigarettes of the tobacco product manufacturer or brand family that are in the possession of the retailer on the date on which the tobacco product manufacturer or brand family is removed from the directory.

(h) The attorney general shall not restore a tobacco product manufacturer or brand family to the directory until the tobacco product manufacturer pays a distributor, stamping agent, or retailer any refund due under subsection (f) or (g).

(i) A distributor or stamping agent shall provide and update as necessary an electronic mail address to the attorney general for purposes of receiving a notification required by this chapter.

SECTION 38. IC 25-1-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32-1).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (13) Indiana physical therapy committee (IC 25-27).
- (14) Respiratory care committee (IC 25-34.5).
- (15) Occupational therapy committee (IC 25-23.5).
- (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (17) Physician assistant committee (IC 25-27.5).
- (18) Indiana athletic trainers board (IC 25-5.1-2-1).
- (19) Indiana dietitians certification board (IC 25-14.5-2-1).
- (20) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) The bureau shall create and maintain a provider profile for each provider described in subsection (a).

(c) A provider profile must contain the following information:

- (1) The provider's name.
- (2) The provider's license, certification, registration, or permit number.
- (3) The provider's license, certification, registration, or permit type.
- (4) The date the provider's license, certification, registration, or permit was issued.
- (5) The date the provider's license, certification, registration, or permit expires.
- (6) The current status of the provider's license, certification, registration, or permit.
- (7) The provider's city and state of record.
- (8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).

(d) The bureau shall make provider profiles available to the public.

(e) The computer gateway administered by the ~~intelenet~~ commission under IC 5-21-2 and known as ~~AccessIndiana~~ office of technology established by IC 4-13.1-2-1 shall make the information described in subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.

(f) The bureau may adopt rules under IC 4-22-2 to implement this section.

SECTION 39. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 4-23-16; IC 5-21; IC 5-22-2-7; IC 5-22-2-13.9; IC 34-30-2-16.

SECTION 40. [EFFECTIVE JULY 1, 2005] (a) After June 30, 2005, a reference in any law, rule, contract, or other document or record to:

- (1) the division of information technology of the department of administration;
- (2) the technology oversight commission;
- (3) the intelenet commission; or
- (4) the enhanced data access review committee;

shall be treated as a reference to the office of technology established by IC 4-13.1-2-1, as added by this act.

(b) On July 1, 2005, the property and obligations of:

- (1) the division of information technology of the department of administration;
- (2) the technology oversight commission;
- (3) the intelenet commission; or
- (4) the enhanced access review committee;

are transferred to the office of technology established by IC 4-13.1-2-1, as added by this act.

(c) An action taken by:

- (1) the division of information technology of the department of administration;
- (2) the technology oversight commission;
- (3) the intelenet commission; or
- (4) the enhanced access review committee;

before July 1, 2005, shall be treated after June 30, 2005, as if the action had been taken originally by the office of technology established by IC 4-13.1-2-1, as added by this act.

(d) The funds that are in:

- (1) the telephone rotary fund;
- (2) the data processing rotary fund;
- (3) any accounts of the intelenet commission; and
- (4) the enhanced access review committee;

shall be transferred to one (1) or more rotary funds established by the office of technology established by IC 4-13.1-2-1, as added by this act, when the rotary fund or rotary funds are established by the office of technology.

(e) On July 1, 2005, individuals who were employees of:

- (1) the division of information technology of the department of administration;
- (2) the technology oversight commission;
- (3) the intelenet commission; or
- (4) the enhanced access review committee;

on June 30, 2005, become employees of the office of technology established by IC 4-13.1-2-1, as added by this act.

(f) This SECTION expires July 1, 2006.

(Reference is to HB 1137 as introduced and as amended by the House Committee on Technology, Research and Development on January 5, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 1.

MURPHY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1183, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 14-15-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. Notwithstanding any of the provisions of this chapter, a person operating a boat competing in and during:

- (1) a boat race;
- (2) a water ski event; or
- (3) any other organized boating activity;

over a fixed and marked course for which a permit has been issued by the department under this article may attempt to attain any speed of which the boat is capable.

SECTION 2. An emergency is declared for this act.

(Reference is to HB 1183 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

HOFFMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1258, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 9, reset in roman "six".

Page 1, line 9, delete "one thousand".

Page 1, line 10, delete "five".

Page 1, line 10, reset in roman "(\$600)".

Page 1, line 10, delete "(\$1,500)".

Page 2, line 2, delete "one thousand five hundred dollars (\$1,500)" and insert "six hundred dollars (\$600)".

Page 2, line 11, reset in roman "four".

Page 2, line 11, delete "eight".

Page 2, line 12, reset in roman "(\$400)".

Page 2, line 12, delete "(\$800)".

Page 2, line 20, delete "eight" and insert "four".

Page 2, line 20, delete "(\$800)" and insert "(\$400)".

(Reference is to HB 1258 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

BUDAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1375, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

RIPLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1402, has had the same under consideration and begs

leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

RIPLEY, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1023, 1046, 1053, 1061, 1077, 1108, 1110, 1121, 1125, 1155, 1231, 1258, 1313, 1316, 1333, 1344, 1347, 1409, and 1530 had been referred to the Committee on Ways and Means.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:10 p.m. with the Speaker in the Chair.

Representative Dobis, who had been excused, was present.

HOUSE BILLS ON SECOND READING

House Bill 1032

Representative Heim called down House Bill 1032 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1085

Representative Thomas called down House Bill 1085 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1112

Representative Richardson called down House Bill 1112 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1120

Representative Espich called down House Bill 1120 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1120-1)

Mr. Speaker: I move that House Bill 1120 be amended to read as follows:

Page 1, between lines 8 and 9, begin a new paragraph and insert: "SECTION 2. IC 6-3.1-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 16. (a) If a pass through entity does not have state tax liability growth against which the tax credit may be applied, **the pass through entity may compute the state tax liability growth that the pass through entity would have had if the pass through entity had been a taxpayer after applying all allowable deductions and credits in each taxable year over which state tax liability growth is computed.**

(b) **If the pass through entity would have had state tax liability growth if the pass through entity were a taxpayer**, a shareholder, member, or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year **under this section**; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, member, or partner is entitled."

Page 3, after line 8, begin a new paragraph and insert: "SECTION 4. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **IC 6-3.1-26-16, as amended by this act, applies to taxable years beginning after December 31, 2003.**

SECTION 5. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.
(Reference is to HB 1120 as printed January 28, 2005.)

ESPICH

Motion prevailed.

HOUSE MOTION (Amendment 1120-2)

Mr. Speaker: I move that House Bill 1120 be amended to read as follows:

Page 2, line 33, strike "existed before the qualified investment was made." and insert **"is attributable to the taxpayer's qualified investment."**

Page 2, between lines 40 and 41, begin a new paragraph and insert: "SECTION 3. IC 6-3.1-26-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the department of commerce and the department of state revenue of the noncompliance and request an assessment.

(b) **Except as provided in subsection (c)**, the department of state revenue, with the assistance of the director, shall **determine and** state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter.

(c) **If a taxpayer who has received a tax credit under this chapter reduces the taxpayer's payroll at the location of the taxpayer's qualified investment below the level required in the taxpayer's tax credit agreement, the department of state revenue shall compute the assessment required under this section as follows:**

STEP ONE: Determine the sum of the tax credits claimed by the taxpayer under this chapter that are attributable to the qualified investment at the location of the reduced payroll.

STEP TWO: Determine the amount of the payroll at the location of the qualified investment required under the taxpayer's tax credit agreement.

STEP THREE: Determine the amount of the payroll at the location of the qualified investment at the time of the director's determination that the taxpayer is not complying with the terms of the tax credit agreement.

STEP FOUR: Subtract the STEP THREE amount from the STEP TWO amount.

STEP FIVE: Divide the STEP FOUR result by the STEP TWO amount.

STEP SIX: Multiply the STEP FIVE result by the STEP ONE sum.

(d) After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1."

Renumber all SECTIONS consecutively.
(Reference is to HB 1120 as printed January 28, 2005.)

CHENEY

Upon request of Representatives Cheney and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 54: yeas 48, nays 50. Motion failed. The bill was ordered engrossed.

House Bill 1141

Representative T. Brown called down House Bill 1141 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1179

Representative Burton called down House Bill 1179 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1179-1)

Mr. Speaker: I move that House Bill 1179 be amended to read as follows:

Page 3, between lines 33 and 34, begin a new paragraph and insert: "SECTION 6. IC 28-1-23-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Subject to IC 28-11-3-6, this section applies to every financial institution (as defined in IC 28-1-1-3) and to other corporations and individuals that may lawfully be subjected to the provisions of this article.

(b) As used in this section, "automated teller machine" means a piece of unmanned electronic or mechanical equipment that performs routine financial transactions for authorized users.

(c) As used in this section, "automated teller machine operator" means any person that:

(1) operates an automated teller machine at which a consumer may initiate an electronic fund transfer; and

(2) is not the consumer's home financial institution.

(d) As used in this section, "electronic fund transfer" has the meaning set forth 15 U.S.C. 1693a(6). The term includes a transaction that involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

(e) As used in this section, "home financial institution" means the financial institution that holds a consumer's account from or to which an electronic transfer is made under this section.

(f) As used in this section, "host transfer service" means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by the automated teller machine operator.

(g) An automated teller machine operator that provides host transfer services to a consumer shall provide notice, in the manner required by subsection (h), to the consumer of any fee imposed by:

(1) the automated teller machine operator for providing the host transfer services; and

(2) the consumer's home financial institution for the consumer's use of the automated teller machine operated by the automated teller machine operator.

(h) The notice required under subsection (g) must:

(1) be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer; and

(2) except as provided in subsection (i), appear on:

(A) the screen of the automated teller machine; or

(B) a paper notice issued from the machine; after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

(i) Before January 1, 2007, subsection (h)(2) does not apply to an automated teller machine that:

(1) is opened or established by a financial institution before July 1, 2005;

(2) is in operation after June 30, 2005; and

(3) lacks the technical capability to provide the notice required by this section in the form required by subsection (h)(2).

After June 30, 2005, a financial institution subject to this section may not open or establish an automated teller machine in any location in Indiana, or as permitted by the laws of the state in which the automated teller machine is to be located, unless the automated teller machine has the technical capability to provide the notice required by this section in the form required by subsection (h)(2).

(j) A consumer's home financial institution shall provide written notice of any fee described in subsection (g)(2) to each automated teller machine operator that operates one (1) or more automated teller machines:

(1) within an automatic teller machine network to which the home financial institution belongs; or

(2) at which the home financial institution's customers may otherwise initiate an electronic fund transfer.

The home financial institution shall provide the notice required by this subsection not later than sixty (60) days before the fee described in subsection (g)(2) takes effect or is changed by the home financial institution.

(k) A fee may not be imposed by:

(1) an automated teller machine operator; or

(2) the home financial institution of a consumer;

for the performance of a host transfer service by the automated teller machine operator on behalf of the consumer unless the consumer receives the notice required under subsection (g) and elects to continue in the manner necessary to effect the service after receiving the notice.

(l) The department may, by acting alone or jointly with a financial institution's primary federal regulator, exercise the department's enforcement powers under IC 28-11-4 to ensure compliance with this section. However, this section does not affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.).

Page 30, between lines 8 and 9, begin a new paragraph and insert: "SECTION 26. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to a financial institution subject to IC 28-1-23-17, as added by this act.

(b) As used in this SECTION, "automated teller machine" has the meaning set forth in IC 28-1-23-17(b), as added by this act.

(c) As used in this SECTION, "automated teller machine operator" has the meaning set forth in IC 28-1-23-17(c), as added by this act.

(d) As used in this SECTION, "home financial institution" has the meaning set forth in IC 28-1-23-17(e), as added by this act.

(e) Not later than June 30, 2005, a consumer's home financial institution shall provide the written notice required by IC 28-1-23-17(j), as added by this act, to each automated teller machine operator that:

(1) operates one (1) or more automated teller machines described in IC 28-1-23-17(j), as added by this act, before July 1, 2005; and

(2) will continue to operate one (1) or more automatic teller machines described in IC 28-1-23-17(j), as added by this act, after June 30, 2005.

(f) Not later than December 31, 2006, a financial institution shall perform or cause to be performed any technical upgrade or modification necessary to enable an automated teller machine to provide the notice required by IC 28-1-23-17, as added by this act, in the form required by IC 28-1-23-17(h)(2), as added by this act.

(g) After December 31, 2006, a financial institution may not continue to operate an automated teller machine that lacks the technical capability to provide the notice required by IC 28-1-23-17, as added by this act, in the form required by IC 28-1-23-17(h)(2), as added by this act.

(h) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to HB 1179 as printed January 26, 2005.)

OXLEY

Upon request of Representatives Oxley and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 55: yeas 47, nays 50. Motion failed. The bill was ordered engrossed.

House Bill 1198

Representative Thompson called down House Bill 1198 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1198-1)

Mr. Speaker: I move that House Bill 1198 be amended to read as follows:

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"(c) The department shall develop and recommend to the board a policy that prohibits the rental or sale of textbooks by a school corporation to students. The board shall adopt rules to carry out the department's recommendation."

Page 2, line 17, delete "(c)" and insert "(d)".

Page 2, line 22, reset in roman ":".

(Reference is to HB 1198 as printed January 28, 2005.)

HOY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Hoy's amendment (1198-1) is not germane to House Bill 1198.

Rule 80 provides a member the right to amend a bill on subjects germane to the subject of the bill under consideration. Amendment 1 is germane to House Bill 1198 because both measures concern the subject of the education of Indiana children.

PELATH
HOY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 56: yeas 51, nays 47. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

House Bill 1200

Representative Thompson called down House Bill 1200 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1302

Representative Gutwein called down House Bill 1302 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1306

Representative Becker called down House Bill 1306 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1335

Representative Budak called down House Bill 1335 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1629

Representative Stevenson called down House Bill 1629 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1662

Representative Frizzell called down House Bill 1662 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1662-1)

Mr. Speaker: I move that House Bill 1662 be amended to read as follows:

Page 4, line 23, delete "eighty (180)" and insert "**twenty (120)**".
Page 4, line 28, delete "eighty (180)" and insert "**twenty (120)**".
(Reference is to HB 1662 as printed January 26, 2005.)

ORENTLICHER

Motion prevailed. The bill was ordered engrossed.

House Bill 1673

Representative T. Harris called down House Bill 1673 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1673-1)

Mr. Speaker: I move that House Bill 1673 be amended to read as follows:

Page 4, line 24, after ";" insert "**or**".
Page 5, line 30, delete "the".
Page 9, line 32, before "The" insert "**(e)**".
Page 11, delete lines 8 through 28.
Page 11, line 33, after "8" delete "," and insert "**and**".

Page 11, line 33, after "8.5" delete ", and 8.7".

Page 17, line 34, after "(c)" insert "**This subsection applies to an action for cancellation of a mark.**".

Page 17, line 35, delete "for cancellation of a".

Page 17, line 36, delete "mark".

Page 17, line 37, after "complaint" insert "**in an action**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1673 as printed January 28, 2005.)

T. HARRIS

Motion prevailed. The bill was ordered engrossed.

House Bill 1098

Representative Messer called down House Bill 1098 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1165

Representative Messer called down House Bill 1165 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1165-1)

Mr. Speaker: I move that House Bill 1165 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-6-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. (a) The following definitions apply throughout this section:**

(1) "**PERF**" refers to the public employees' retirement fund established under IC 5-10.3-2-1.

(2) "**Securities**" has the meaning set forth in IC 23-2-1-1.

(3) "**Securities fraud**" means a violation of:

(A) IC 23-2-1;

(B) the federal Securities Act of 1933 (15 U.S.C. 77a);

(C) the federal Securities Exchange Act of 1934 (15 U.S.C. 78a);

(D) the federal Public Utility Holding Company Act of 1935 (15 U.S.C. 79a);

(E) the federal Trust Indentures Act of 1939 (15 U.S.C. 77aaa);

(F) the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1);

(G) the federal Investment Company Act of 1940 (15 U.S.C. 80a-1);

(H) the federal Securities Investor Protection Act of 1970 (15 U.S.C. 77aaa); or

(I) the statutes, rules, or regulations of another state that are substantially similar to clauses (A) through (H).

(4) "**TRF**" refers to the Indiana state teachers' retirement fund established under IC 21-6.1-2-1.

(b) The attorney general shall investigate the commission or possible commission of securities fraud if there is a reasonable likelihood that the securities fraud affected securities owned by PERF or TRF. The attorney general may request the assistance of the securities commissioner in conducting an investigation under this subsection.

(c) Not later than thirty (30) days after the attorney general has completed an investigation under this section, the attorney general shall report the results of the investigation to the legislative council. The attorney general's report to the legislative council must be in an electronic format under IC 5-14-6.

(d) If:

(1) a civil or administrative action has been filed that relates to a securities fraud described in subsection (b); and

(2) intervention is permissible under an applicable statute, court rule, administrative rule or regulation, or other authority;

the attorney general shall intervene on behalf of PERF or TRF in the civil or administrative action."

Page 10, after line 3, begin a new paragraph and insert:

"SECTION 7. IC 23-2-1-15 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) This chapter shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this chapter under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this chapter. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

(1) shall employ a chief deputy, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this chapter; and

(2) shall fix their compensation with the approval of the budget agency.

The chief deputy, other deputies, the senior investigator, and the senior accountant, once employed under this chapter, may be dismissed only for cause by the secretary of state upon ten (10) days notice in writing stating the reasons for dismissal. Within fifteen (15) days after dismissal, the chief deputy, other deputies, the senior investigator, and the senior accountant may appeal to the state personnel board. The state personnel board shall hold a hearing, and if it finds that the appealing party was dismissed for a political, social, religious, or racial reason, the appealing party shall be reinstated to the appealing party's position without loss of pay. In all other cases, if the decision is favorable to the appealing party, the secretary of state shall follow the findings and recommendations of the board, which may include reinstatement and payment of salary or wages lost. The hearing and any subsequent proceedings or appeals shall be governed by the provisions of IC 4-15-2 and IC 4-21.5.

(c) Fees and funds of whatever character accruing from the administration of this chapter shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of state in the general fund of the state. Expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, costs of investigations recovered under sections 16(d) and 17.1(c) of this chapter shall be deposited with the treasurer of state to be deposited by the treasurer of state in a separate account to be known as the securities division enforcement account. The funds in the account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter. The funds in the account do not revert to the general fund at the end of any fiscal year.

(d) In connection with the administration and enforcement of the provisions of this chapter, the attorney general shall render all necessary assistance to the securities commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the securities commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office.

(e) Neither the secretary of state, the securities commissioner, nor an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.

(f) The commissioner, subject to the approval of the secretary of state, may adopt rules, orders, and forms necessary to carry out this chapter, including rules and forms concerning registration statements, applications, reports, and the definitions of any terms if the definitions are consistent with this chapter. The commissioner may by rule or order allow for exemptions from registration requirements under sections 3 and 8 of this chapter if the exemptions are consistent with the public interest and this chapter.

(g) The provisions of this chapter delegating and granting power to the secretary of state, the securities division, and the securities commissioner shall be liberally construed to the end that:

- (1) the practice or commission of fraud may be prohibited and prevented;
- (2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and
- (3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

It is the intent and purpose of this chapter to delegate and grant to and vest in the secretary of state, the securities division, and the securities commissioner full and complete power to carry into effect and accomplish the purpose of this chapter and to charge them with full and complete responsibility for its effective administration.

(h) It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the securities commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this chapter and in a civil proceeding or action arising under this chapter. If the commissioner determines that an action based on the securities division's investigations is meritorious:

- (1) the commissioner or a designee empowered by the commissioner shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed;
- (2) the commissioner and the securities division shall assist the prosecuting attorney in prosecuting an action under this section, which may include a securities division attorney serving as a special deputy prosecutor appointed by the prosecuting attorney;
- (3) a prosecuting attorney to whom facts concerning fraud are certified under subdivision (1) may refer the matter to the attorney general; and
- (4) if a matter has been referred to the attorney general under subdivision (3), the attorney general may:

(A) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(B) prosecute the alleged offense.

(i) The securities commissioner shall take, prescribe, and file the oath of office prescribed by law. The securities commissioner, senior investigator, and each deputy are police officers of the state and shall have all the powers and duties of police officers in making arrests for violations of this chapter, or in serving any process, notice, or order connected with the enforcement of this chapter by whatever officer or authority or court issued. The securities commissioner, the deputy commissioners for enforcement, and the investigators comprise the enforcement department of the division and are considered a criminal justice agency for purposes of IC 5-2-4 and IC 10-13-3.

(j) Upon request of the attorney general, the securities commissioner shall assist the attorney general in a securities fraud investigation under IC 4-6-2-12 concerning securities owned by the public employees' retirement fund (IC 5-10.3-2-1) or the Indiana state teachers' retirement fund (IC 21-6.1-2-1). Expenses incurred by the securities commissioner in assisting the attorney general in an investigation under IC 4-6-2-12 shall be paid by the secretary of state from funds appropriated for the administration of this chapter.

(k) The securities commissioner and each employee of the securities division shall be reimbursed for necessary hotel and travel expenses when required to travel on official duty. Hotel and travel reimbursements shall be paid in accordance with the travel regulations prescribed by the budget agency.

(l) It is unlawful for the secretary of state, the securities commissioner, or the securities division's employees to use for personal benefit information that is filed with or obtained by the securities division and that is not made public. No provision of this chapter authorizes the secretary of state, the securities commissioner, or the employees of the securities division to disclose information except among themselves, or when necessary or appropriate, in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from a privilege that exists at common law or otherwise when documentary or other evidence is

sought under a subpoena directed to the secretary of state, the securities commissioner, or the securities division or its employees.

(†) (m) The commissioner may honor requests from interested persons for interpretative opinions and from interested persons for determinations that the commissioner will not institute enforcement proceedings against specified persons for specified activities. A determination not to institute enforcement proceedings must be consistent with this chapter. A person may not request an interpretive opinion concerning an activity that:

(1) occurred before; or

(2) is occurring on;

the date that the opinion is requested. The commissioner shall charge a fee of one hundred dollars (\$100) for an interpretative opinion or determination."

Renumber all SECTIONS consecutively.

(Reference is to HB 1165 as printed January 28, 2005.)

CROOKS

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

After discussion, Representative Whetstone withdrew the point of order.

The question was on the motion of Representative Crooks. Upon request of Representatives Crooks and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 57: yeas 94, nays 3. Motion prevailed. The bill was ordered engrossed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1039

Representative Ayres called down Engrossed House Bill 1039 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 58: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Bray, Heinold, and Broden.

Engrossed House Bill 1057

Representative Duncan called down Engrossed House Bill 1057 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 59: yeas 72, nays 26. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Wyss.

Representatives Buck, McClain, and Walorski were excused for the rest of the day.

Engrossed House Bill 1080

Representative Murphy called down Engrossed House Bill 1080 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 60: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and L. Lutz.

The House stood for a moment of silence in honor of Governor Robert D. Orr. [*Journal Clerk's note: Engrossed House Bill 1080 names the plaza between buildings on the state government campus for Governor Orr.*]

Engrossed House Bill 1105

Representative Bischoff called down Engrossed House Bill 1105 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 61: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Nugent, Paul, Lewis, and R. Young.

Engrossed House Bill 1219

Representative Koch called down Engrossed House Bill 1219 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 62: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Paul, Lanane, Landske, and Wyss.

Engrossed House Bill 1263

Representative Pond called down Engrossed House Bill 1263 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 63: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Long, Wyss, Zakas, and Broden.

Engrossed House Bill 1325

Representative Becker called down Engrossed House Bill 1325 for third reading:

A BILL FOR AN ACT concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 64: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and Riegsecker.

Engrossed House Bill 1346

Representative Buell called down Engrossed House Bill 1346 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 65: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Harrison and Craycraft.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 100 and 169 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1039, Roll Call 58, on January 31, 2005. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, the machine did not register my vote. I intended to vote yea."

KLINKER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 58 to 97 yeas, 0 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representatives Crawford and Cochran be added as coauthors of House Bill 1001.

ESPICH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Heim be added as coauthor of House Bill 1063.

WOLKINS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Hoy, Yount, and Becker be added as coauthors of House Bill 1080.

MURPHY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Robertson be added as coauthor of House Bill 1085.

THOMAS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ulmer, Kuzman, and Foley be added as coauthors of House Bill 1113.

RICHARDSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Klinker, Davis, and T. Adams be added as coauthors of House Bill 1120.

ESPICH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Foley, Ulmer, and Austin be added as coauthors of House Bill 1174.

MAYS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Porter be added as

coauthor of House Bill 1198.

THOMPSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Moses be added as coauthor of House Bill 1200.

THOMPSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dickinson be added as coauthor of House Bill 1217.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Mahern and Thomas be added as coauthors of House Bill 1226.

RICHARDSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Klinker and Pond be added as coauthors of House Bill 1241.

T. HARRIS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representative Neese be added as coauthor of House Bill 1260.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stutzman be added as coauthor of House Bill 1302.

GUTWEIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Klinker be removed as author of House Bill 1378, Representative Thompson be substituted as author, and Representative Klinker be added as coauthor.

KLINKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Heim be added as coauthor of House Bill 1383.

WOLKINS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Mahern and Thomas be added as coauthors of House Bill 1407.

RICHARDSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Reske and Heim be added as coauthors of House Bill 1409.

YOUNT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Hinkle and Stutzman be added as coauthors of House Bill 1431.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Woodruff and Thomas be added as coauthors of House Bill 1444.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stevenson be added as coauthor of House Bill 1495.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1501.

YOUNT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Fry and Klinker be added as coauthors of House Bill 1519.

ALDERMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Walorski and Behning be added as coauthors of House Bill 1530.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representative Summers be added as coauthor of House Bill 1553.

BUELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1556.

BECKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Reske be added as coauthor of House Bill 1560.

DODGE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Micon removed as author of House Bill 1582, Representative Thompson be substituted as author, and Representative Micon be added as coauthor.

MICON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives L. Lawson and Reske be added as coauthors of House Bill 1583.

T, BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be added as coauthor of House Bill 1593.

RUPPEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Cochran be added as coauthor of House Bill 1594.

RUPPEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representative Welch be added as coauthor of House Bill 1611.

NOE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Buell be added as coauthor of House Bill 1629.

STEVENSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Mahern and Thomas be added as coauthors of House Bill 1651.

RICHARDSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Murphy be removed as coauthor of House Bill 1662.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and Representatives Becker, Crawford, and C. Brown be added as coauthors.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Crawford be added as coauthor of House Bill 1668.

HINKLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Walorski and Reske be added as coauthors of House Bill 1673.

T. HARRIS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1692.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Espich be removed as author of House Bill 1729, Representative Friend be substituted as author, and Representative Espich be added as coauthor.

ESPICH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hoffman be added as coauthor of House Bill 1737.

ROBERTSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Mays be removed as author of House Bill 1766, Representative Stilwell be removed as coauthor, Representative Stilwell be added as author, and Representative Mays be added as coauthor.

MAYS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives C. Brown and Ruppel be added as coauthors of House Bill 1776.

BUELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Torr be added as coauthor of House Bill 1777.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Kuzman, Ulmer, and Bosma be added as coauthors of House Bill 1777.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Stutzman and Davis be added as coauthors of House Bill 1798.

POND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative VanHaaften be added as coauthor of House Bill 1818.

STUTZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives T. Adams, Alderman, Austin, Ayres, Becker, Behning, Borders, Borror, Bosma, Bottorff, Bright, T. Brown, Buck, Budak, Buell, Burton, Cherry, Cochran, Davis, Denbo, Dobis, Dodge, Duncan, Espich, Foley, Friend, Frizzell, Fry, GiaQuinta, Goodin, Gutwein, T. Harris, Heim, Hinkle, Kersey, Klinker, Koch, Kuzman, Lehe, Leonard, J. Lutz, Mays, McClain, Messer, Moses, Murphy, Neese, Noe, Pflum, Pond, Reske, Richardson, Ripley, Robertson, Ruppel, Saunders, J. Smith, V. Smith, Stutzman, Thomas, Thompson, Tincher, Torr, Turner, VanHaaften, Walorski, Whetstone, Wolkins, Woodruff, and Yount be added as coauthors of House Joint Resolution 4.

ULMER

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Bright, the House adjourned at 5:00 p.m., this thirty-first day of January, 2005, until Tuesday, February 1, 2005, at 1:30 p.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives